

## **V. POLICIES AND PROCEDURES GOVERNING COMPENSATION**

### **A. GENERAL BILLING POLICIES AND PROCEDURES**

#### **1. Compensation**

The attorney shall not accept any compensation or other consideration for assigned representation except through the Committee for Public Counsel Services. This rule applies to both indigent cases and marginally indigent cases. The attorney may not be privately retained in a case in which s/he was previously assigned.

#### **2. Representation of CPCS Clients on Unrelated Cases**

After an attorney has been assigned to a client's CPCS case, if the client wishes to retain the attorney privately on a separate unrelated case, the attorney should advise the client of his/her right to seek other counsel. The attorney should be aware that representation of the client on such matters may create the appearance of impropriety, solicitation, or overreaching. If the client persists in his/her request to retain the attorney privately on the separate unrelated case, it is advisable for the attorney to obtain a written informed consent from the client, indicating the client's understanding of his/her right to seek other counsel for the private case. The attorney should fully explain the possible appearance of impropriety, solicitation, or overreaching.

#### **3. Publication of Policies of the Committee for Public Counsel Services**

All attorneys receiving case assignments through the Committee for Public Counsel Services receive the CPCS Criminal Training Bulletin and/or the Civil Litigation Newsletter. Each is published quarterly. All new policies of the Committee are published in the Training Bulletin and Civil Litigation Newsletter, and appear on the CPCS Web Site, located at: [www.state.ma.us/cpcs](http://www.state.ma.us/cpcs). Attorneys accepting case assignments through the Committee for Public Counsel Services are expected to apprise themselves of all CPCS rules and policies contained both in this Manual and in any subsequent editions of the Training Bulletin and Civil Litigation Newsletter.

#### **4. Attorney Certification Requirement**

Attorneys accepting cases for which they are not certified will not be paid for those cases.

#### **5. Bail-Only Cases**

An attorney assigned to a case for Bail Only will be paid only for the arraignment, and not for the full case.

## **6. Expenses-Documentation Required**

The Comptroller of the Commonwealth requires complete documentation, including all receipts and an itemization of expenses, in order to reimburse attorneys for expenses.

## **7. Vendor Code Instructions**

Attorneys and other vendors must have a state vendor code in order for their assignments and bills to be processed. To obtain a vendor code, three forms must be filled out:

- a. Request for Verification of Taxation Reporting Information
- b. Telebill Private Attorney PIN Agreement (see below)
- c. Attorney Certification Information

The forms should be filled out completely and submitted to the Vendor Maintenance Clerk, Private Attorney Payment Department, Committee for Public Counsel Services, 470 Atlantic Ave., Suite 700, Boston, MA 02210. Copies of the forms can be obtained from the Vendor Maintenance Clerk by leaving a message at (617) 988-8402. Please leave your complete name and address. Allow approximately three weeks from our receipt of the correctly completed forms to complete the process of setting you up as a state vendor. We will not contact you unless there is a problem.

## **8. Vendor Requirements**

Attorneys, associates and paralegals, and all vendors paid via the Indigent Court Cost fund who provide services on cases assigned to an attorney pursuant to G.L.c.211D, are subject to the CPCS General Billing Policies and Procedures, and must maintain adequate documentation to support their billings, especially detailed time records of actual hours worked. The CPCS record-keeping requirements for non-attorney vendors is the same as the CPCS record-keeping requirements for attorney vendors. In situations in which a vendor's bill represents hours worked by more than one individual, a separate time sheet is required for each individual. Adequate documentation also includes such items as receipts, canceled checks, and mileage records. Vendors must be able to adequately support their bills.

## **9. Telebill Requirements**

All bills for legal services up to a **\$350 maximum** and with **no more than 8 lines of service dates** must be filed using Telebill.

Attorneys must have a PIN code to access the Telebill system. If an attorney does not have a PIN code, s/he must complete the following PIN agreement form and return it to the Private Attorney Payment Department, attn: Telebill.

## Committee for Public Counsel Services

### Private Attorney PIN Agreement

In consideration of the grant of access to the Committee for Public Counsel Services (CPCS) Telebill System through my individual personal identification number (PIN), I hereby agree to abide by the terms and conditions of this agreement, as set forth below:

1. The PIN number to be assigned will be used only by me for CPCS bills where work was performed by me and will be safeguarded by and remain in confidence with me.
2. I agree to exclusively use and complete the current version of the CPCS Telebill form or a clear photocopy of same, completing all sections and attesting to the bill via my personal signature on the telebill form prior to actual telephone transmission of the bill data.
3. Further, I agree to maintain the original signed telebill for a period of seven years from the bill date or the fiscal year end date or until the resolution of any litigation, claim, negotiation, audit or other action involving the telebill which arises at any time during the retention period, whichever is later; and I further agree to produce the bill(s) and supporting documentation for CPCS or the State Auditor upon request. *Please note: The multi-part CPCS Request For Payment form currently in use for manual submission of bills may not be used and will not be an acceptable substitute when telebilling.*

In the event you lose your PIN, the following information is required to ensure proper identification before CPCS can release your PIN to you.

Mother's Maiden Name: \_\_\_\_\_ Your Social Security No: \_\_\_\_\_

I certify under pains and penalties of perjury that for all my bills filed with CPCS through the "Telebill" system, I will have been assigned to each case indicated on my telebills; I will have provided the services described on the dates and for the times listed; I will have provided representation consistent with CPCS Performance Guidelines and Standards; and all charges for legal services reflected on the telebills are based on my contemporaneous time records maintained in accordance with CPCS Policies and Procedures Manual and regulations.

\_\_\_\_\_  
Attorney Signature

\_\_\_\_\_  
Agreement Date

\_\_\_\_\_  
Print Name

**The following Telebill master form may be copied as needed.**

**The Telebill form can be downloaded in PDF format.**

### Telebill Confirmation:

Please note that this form has three confirmation categories to indicate bill status.

- ◆ **Cleared** - the bill has been accepted and payment will be forthcoming.
- ◆ **Cleared-Late** - the bill has been accepted and payment will be forthcoming at a 5% reduction, pursuant to c. 211D, section 12.
- ◆ **Pending Assignment** - the billing information has been filed although the assignment is not yet on file. Telebill will retain the bill information for up to 90 days. The attorney will be notified in writing if 60 days have passed and the assignment has not been received. If 90 days have passed, and the assignment is still not on file, the billing information will be deleted and a written notification will be issued. If the attorney receives a 90-day notification of deletion, s/he can return it with a copy of the authorized assignment, and the telebill will be reinstated. The manual bill will not be considered late if the letter is attached. The attorney may dial in at any time to check on the status of a pending assignment bill. If the bill is no longer pending it will either have been sent for payment or deleted after 90 days.

### Expenses:

For Telebill eligible bills, expenses that would be included on Part C of a paper bill (standard RFP) must be billed separately on a payment voucher input form, also known as a "PV." Please see the Expenses section of this manual for a description of reimbursable expenses and the documentation required, as well as instructions on how to access the Indigent Court Costs Fund and how to complete a PV. The expenses for which reimbursement is sought and the completed PV must comply with the policies and procedures set forth in this Manual. The NAC number and Telebill confirmation number must be included on the PV. CPCS requires one form with an original signature and the necessary attachments. Included in this manual is a PV form which can be copied.

### Submission of Late Bills:

If Telebill determines that a bill has been filed late (see below) it will tell the attorney that s/he has missed a deadline, and it will automatically process the bill at a 5% reduction, as required by G.L.c.211D, s.12. Payment of year-end bills that are filed past August 1 is dependent on available appropriation funding, and could be significantly delayed.

### Telebill Questions:

For additional questions regarding how to operate Telebill, please:

- FAX CPCS c/o Telebill at (617) 988-8433
- Call Monday through Friday at (617) 988-8419.  
(Questions related to payment of a Telebill must be submitted in writing, however.)

- Or write to CPCS, c/o Telebill, Suite 700, 470 Atlantic Avenue, Boston, MA 02210.

## **10. Late Bills**

All bills must be received by CPCS or the bar advocate program (where appropriate) **within thirty days of the conclusion of the case** (see below).

**For all cases open and pending at the end of the fiscal year** (June 30) bills must be received by CPCS or the Bar Advocate Program no later than August 1. Payment of year-end bills that are filed past August 1 is dependent on available appropriation funding, and could be significantly delayed.

Prior to filing a Case Closed Bill, **all** charges under a single NAC number must have concluded. An attorney cannot file a bill if one or more of the charges on the NAC has been dismissed, while other charges are still pending. The attorney must wait until all charges have been disposed of.

### **A. Conclusion of the Case**

#### **1. In Criminal Proceedings**

In criminal proceedings, a case is considered concluded for billing purposes as of the date of any of the following events:

- a. date of default of client
- b. date of disposition hearing\*
- c. date of plea hearing or trial\*
- d. date that attorney withdraws from case
- e. date that attorney reports case to bar advocate program or CPCS for reassignment

\* NOTE: Even if a client is placed on probation, or given a continuance without a finding, the conclusion of the case for billing purposes is the date of the hearing or court decision, not the date of the end of the probationary term.

#### **2. In Children and Family Law Proceedings**

In children and family law proceedings, a case is considered concluded for billing purposes as follows:

- a. For all clients, upon the dismissal of the petition.
- b. For child clients, upon termination of the petition when the subject child attains majority, is the subject of a permanent guardianship or is adopted.
- c. For adult clients, upon entry of a decree dispensing with consent if there is no appeal or if the trial court judgement is affirmed after appeal and there are no post-trial matters pending to which the client has a right to counsel.

### 3. In Mental Health Proceedings

In mental health proceedings, a case is considered concluded for billing purposes as follows:

- a. Civil Commitment (no judicial review ordered): After explaining disposition and appellate rights to client and, when requested to do so by client, upon the filing of a Notice of Appeal.
- b. Civil Commitment (judicial review ordered): Quarterly billing is permissible until the judicial review takes place. Upon conclusion of the judicial review, the case is considered concluded for billing purposes.
- c. Substituted Judgment (Rogers): Quarterly billing is permissible until expiration of the order. Upon expiration of the order, the case is considered concluded for billing purposes.

### B. Defaults / Probation Surrenders

If a client defaults, CPCS must receive a bill from the attorney within thirty days of the default date. When and if the client reappears, the same attorney should resume representation, using the same Notice of Assignment of Counsel number. Immediately following the resumption of representation, the attorney should notify the CPCS Private Attorney Payment Department in writing (either by FAX or mail) that the case was reopened due to the reappearance of a defaulted client.

This procedure does not apply to probation surrenders. Probation surrenders require a new assignment form.

### C. Five Percent (5%) Reduction

Bills received by CPCS after the 30-day deadline (or after August 1 for end-of-fiscal-year bills) will be reduced by 5%, pursuant to G.L.c.211D, s.12.

For information regarding the date of conclusion of the case, contact the local bar advocate program, or the appropriate department of the Private Counsel Division of CPCS.

## 11. Caseload Limits

Attorneys may accept no more than the following number of cases for a single fiscal year:



Superior Court jurisdiction criminal cases.....200 per year, or  
 District Court jurisdiction criminal cases.....400 per year, or  
 Delinquency cases.....300 per year, or  
 Children and Family Law cases.....200 per year\*, or  
 Mental Health cases.....200 per year

\*In addition to these caseload limits, Children and Family Law case assignments are further limited to 75 open cases. See section on Children and Family Law: Pending Caseload Limits in this manual.

Each category of cases represents 100 percent of an attorney's allowable caseload. Thus, during the 12-month period, if an attorney is assigned 200 district court cases, it would represent 50 percent of the number of cases which could be accepted. The attorney could accept 200 District court cases, 50 Superior Court cases and 50 Mental Health cases in one year. Or the attorney could handle 150 Delinquency cases, 50 Children and Family Law cases, and 100 District Court cases in one year. Any combination of cases in each category adding up to the maximum caseload will represent a 100 percent caseload.

"Bail only," "bail review," and G.L.c.123, s.12(e) cases (warrants of apprehension) will not count as a case. Similarly, c.112, '12s cases (petitions of minors seeking abortions) in the Superior Court will not be counted. C.123, '35 cases (commitment of alcoholics) are counted as the equivalent of a district court jurisdiction case.

Defaulted cases **DO** count as a case; therefore, in the event that a defaulted client reappears at a later date, the client should be reassigned to the originally assigned attorney, under the **same** Notice of Assignment of Counsel form.

Superior court and district court jurisdiction cases are determined by the severity of the charge, and not by the court of origin or disposition. Cases in which the defendant is bound over to the grand jury should be assigned to the same Superior Court-qualified attorney under the same Notice of Counsel form to avoid duplication of assignments.

It is each attorney's responsibility to keep track of his or her caseload. Attorneys who exceed the Committee's caseload limits will not be compensated for cases that exceed the respective caseload limits. Case assignments in excess of the Committee's limits will be reassigned.

## **12. 1800 Billable Hour Limit Per Fiscal Year**

CPCS will not pay any attorney for more than 1,800 billable hours of service in a fiscal year. The cap is intended: 1) to enhance the quality of representation provided to CPCS clients; 2) to achieve a more equitable distribution of assignments among CPCS-certified counsel; and 3) as an additional guard against over-billing.

It is each attorney's responsibility to keep track of his or her billable hours. Attorneys who reach the 1800 billable hour cap prior to the end of the fiscal year shall not accept new case assignments for the remainder of the current fiscal year.

Attorneys who exceed the billable hour cap will not be compensated for hours billed in excess of 1,800 hours per year. To avoid prejudice to clients, attorneys must nevertheless complete their representation of any clients and cases to which they have accepted assignment, regardless of the cap on billable hours.

An attorney who has billed in excess of 1800 hours may not bill as an associate or paralegal, or for any other services on other CPCS case assignments. Furthermore, an attorney who has billed in excess of 1800 hours may not hire and bill for an associate to complete work on open cases.

Attorneys who exceed 1800 billable hours will not be reimbursed for routine expenses.

### **13. Quarterly Billing**

Quarterly billing is automatically allowed for murder cases, post-conviction cases, criminal appeals, civil appeals, and all other civil cases, including children and family law, mental health, and sex offender registry cases. Quarterly bills must be submitted as follows: For services rendered between July 1 and September 30, bills must be submitted no later than October 30. For services rendered between October 1 and December 31, bills must be submitted no later than January 31. For services rendered between January 1 and March 31, bills must be submitted no later than April 30. For services rendered between April 1 and June 30, bills must be submitted no later than August 1. In any event, all end-of-fiscal year bills must be received no later than August 1. Bills received after August 1 will incur a 5% reduction and risk significant delay of payment if the fiscal year appropriation has been expended.

Quarterly bills must include all dates of service for the entire three month period. You cannot split a quarter; once you have filed a bill listing one date in a quarter, you cannot bill any other date in that quarter.

Complete quarters can be combined; you may submit a bill for two complete quarters in a single bill.

It is not necessary to obtain approval from CPCS or the Deputy Chief Counsel in order to quarterly bill on murder cases, post-conviction, children and family law, mental health, or sex offender registry cases. However, quarterly billing is generally not allowed for criminal or delinquency cases, unless a demonstration of extenuating circumstances is made in writing to the Deputy Chief Counsel of the Private Counsel Division. Prior written authorization from the Deputy Chief Counsel of the Private Counsel Division to quarterly bill a criminal case is required, and must be attached to the bill.

### **14. Ten-Hour Daily Billing Limit**

Attorneys are limited to billing actual reasonable time for legal services up to a presumptive maximum of ten billable hours per day. Bills submitted in excess of ten hours per day will be reduced to ten hours by CPCS. Murder cases are exempt from the ten-hour daily billing limit.

The ten-hour daily billing limit does not imply that all dates on which ten hours or less are billed are accepted by the Committee as accurate. Cumulative daily hours billed must represent the **actual** time spent working, be properly documented, and be in conformance with all CPCS policies and procedures.

An attorney may request a waiver of the presumptive ten hour billing limit by submitting a Request for Waiver form for each date the attorney wishes to be compensated for time in excess of ten hours, prior to billing for that date. Each date for which the attorney wishes to be compensated for more than ten hours requires a separate form. Attorneys may make copies of the following blank two-page Request for Waiver form:

- REQUEST FOR WAIVER FORM -

Page 1 Download this page separately in PDF file format

- REQUEST FOR WAIVER FORM -

Page 2    Download this page separately in PDF file format

The Request for Waiver should be submitted to CPCS Attention: Helen Fremont as early as possible - ideally, the day after the attorney concludes a workday on which the attorney performed more than ten hours of service on assigned cases.

The Request for Waiver must be **submitted and approved after providing the services and before billing for more than ten hours for services performed on the requested Waiver Date.**

If the attorney submits bills exceeding 10 hours on one day after submitting a waiver, but before the waiver is approved, the attorney will be limited to a maximum of ten billable hours on that date.

Attorneys should be sure to obtain approval of waivers in time to submit their bills before the thirty day billing deadline.

For further information about the waiver policy, please contact CPCS Administration and request a copy of the Instructions and Guide for Ten Hour Daily Billing Limit of June, 1996.

## **15. Two County Limit**

Attorneys may participate in no more than two county bar advocate programs. **The attorney's office(s) must be within geographic proximity to the courts in which s/he wishes to accept assignments.** No limit on the number of counties is applicable to members of the CAFL mental health, or appellate panels.

### **a. Bilingual Attorneys**

The Committee for Public Counsel Services has adopted a policy to permit inter-county case assignments to bilingual attorneys, to improve access to justice for linguistic minorities. This policy waives the two-county limit on Bar Advocate Program participation to allow bilingual attorneys to receive additional individual case assignments to represent non-English speakers.

Attorneys will be certified as bilingual for these case assignments by submitting to the Committee for Public Counsel Services, Private Counsel Division Director of Supervision and Evaluation, information regarding their fluency in a language or languages spoken by significant numbers of the Committee's clients. A list of attorneys certified as bilingual will be circulated to all Bar Advocate Programs.

This policy should be used in concert with case assignment policies to provide the best access to counsel and the best representation possible for our clients.

The Performance Guidelines published by the Committee for Public Counsel Services apply in all respects to special assignments to bilingual attorneys. The Committee expects counsel to meet regularly with the client, in a professional setting readily accessible to the client. The

attorney is responsible for making her/himself available to the client, regardless of geographic distance.

#### **16. Children and Family Law Cases: Pending Caseload Limit**

The Committee has established a maximum caseload limit of 75 open Children and Family Law cases that an attorney may carry at one time. Open cases include cases that are both pre-judgment and post-judgment. Children and Family Law cases are defined below:

A "Children and Family Law case" is defined, for the purposes of the pending caseload limit, as care and protection petitions, including petitions filed under G.L. c 119, s.24 and petitions filed in the Probate and Family Court pursuant to G.L. c. 119, '23C, petitions filed pursuant to G.L. c. 210, '3, and any other civil action in which a child or an indigent parent is entitled to the assignment of counsel pursuant to *Balboni v. Balboni*, 39 Mass. App. Ct. 210 (1995).

#### **17. Children and Family Law Cases: Client Contact Certification**

The following Client Contact Certification must be completed by all attorneys on all Children and Family Law cases, including CHINS cases, **and** appended to any billing requests. Failure to append a completed client contact certification to a proper billing request may result in rejection of the bill. For bills submitted by Telebill, all billing records, including client contact certification forms should be maintained in accordance with Telebill requirements.

The certification should detail in-person client contact only and must include the client's name, and the date and location of the meeting. If the client is a child, the form should include the name of the substitute care provider. In the event that the attorney represents multiple child clients on the same NAC who are in separate placements, a separate client contact certification form must be provided for each child client. If no client contact is had within the billing period, the form should be completed and marked No In-Person Client Contact in the section of the form where contact should be detailed.

A copy of the form follows. **NOTE: This form is downloadable in PDF file format**

**COMMITTEE FOR PUBLIC COUNSEL SERVICES  
CHILD AND FAMILY LAW PROGRAM  
CLIENT CONTACT CERTIFICATION**

Case Name (as recorded in court docket, last name first) \_\_\_\_\_  
Court \_\_\_\_\_ Docket No.(s) \_\_\_\_\_

NAC No. \_\_\_\_\_ Date of Assignment \_\_\_\_\_

Attorney  
Name \_\_\_\_\_ BBO# \_\_\_\_\_

Address \_\_\_\_\_

Tel. No. \_\_\_\_\_

Client: \_\_Parent; \_\_Child(ren); \_\_Other  
(explain): \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Tel. No. \_\_\_\_\_

Care Provider (For child in placement) \_\_\_\_\_

\*ATTACH SEPARATE SHEET FOR OTHER CLIENT[S] IN SEPARATE LOCATION[S].

List each in-person contact you had with your client(s) since you were assigned the case, or since your most recent submission of this form. (Use separate sheet if needed.):

| Dates of Meetings                   | Location of Meeting (Office, Home Visit) | Duration of Meetings |
|-------------------------------------|--|----------------------|
| Give address if differs from above) |  |                      |

\_\_\_\_ I certify that the information not provided has been withheld pursuant to Rule 1.6 of the Massachusetts Rules of Professional Conduct, and the client has not exercised a waiver.

\_\_\_\_ I certify that the information not provided has been withheld because it is confidential under governing law.

I certify the above information to be true.

Attorney Signature \_\_\_\_\_ Date \_\_\_\_\_

SUBMIT THIS FORM TO CPCS WITH EACH CHILDREN-FAMILY LAW BILL CONTAINING SERVICES DATED JULY 1, 1995 AND THEREAFTER. FAILURE TO SUBMIT THIS FORM WILL RESULT IN REJECTION OF THE BILL. IF YOU ARE BILLING BY TELEBILL OR IF YOU CERTIFY THAT YOU ARE WITHHOLDING CERTAIN INFORMATION PURSUANT TO RULE 1.6 OF THE MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT OR GOVERNING LAW, YOU MUST RETAIN IN YOUR RECORDS A COPY OF THIS FORM CONTAINING ALL INFORMATION REQUESTED.



## **18. Requests For Payment and Record-Keeping Requirements**

### **A. Audit and Oversight**

Attorneys and vendors who accept assignments through CPCS and who submit bills to CPCS are subject not only to performance evaluations, but also to audits of caseloads and bills. On site audits may be performed at the attorney's home office and/or business office. Attorneys must make available to the Audit and Oversight Department all case file and billing documentation within the confines of legitimate client confidentiality restrictions. Attorneys may be subject to repayment of overbillings, as well as payment of interest and penalties for audits. See the section of this Manual for the Disciplinary Procedure - Billing Irregularities.

### **B. SUBMISSION OF REQUESTS FOR PAYMENTS (RFPs) (BILLS)**

#### **Do not submit bills to the courts.**

All bills for legal services up to a **\$350 maximum** and with **no more than 8 lines of service dates** must be filed using telebill. (See Telebill and Late Bill sections of this manual.)

All other bills must be received by CPCS or the appropriate Bar Advocate program within thirty days of the conclusion of a matter in order to be processed for payment. For ALL matters pending at the close of a fiscal year (June 30), bills for services rendered in that year must be received by CPCS or the appropriate Bar Advocate program by August 1.

**REMINDER:** THE COMMONWEALTH'S FISCAL YEAR RUNS FROM JULY 1 THROUGH JUNE 30. PLEASE SUBMIT SEPARATE BILLS FOR EACH FISCAL YEAR. END-OF-YEAR BILLS MUST BE RECEIVED NO LATER THAN AUGUST 1 OF THAT YEAR.

#### **Quarter-Hour Increments:**

Attorneys are required to **bill** in quarter-hour increments. This means rounding off the amount of time actually spent working to the **nearest** quarter hour. You may **not** automatically round each separate task **up** to the next quarter hour.

For example:

1. If you spend 10 minutes on a case, you may bill .25 hours. If you spend 20 minutes on a case, you may still bill only .25 hours.
2. If you spend 5 minutes investigating a case, and 5 minutes interviewing a client, you may bill .25 hours for **either** client interview **or** for investigation, but not both.
3. If you make four 5-minute telephone calls, you may bill .25 hours. You may not bill .25 hours for each of the four separate telephone calls.

4. If you perform only **one task during the entire day** for **all** your CPCS cases you may round this one task to a quarter-hour. For example, if you make only one 5-minute phone call and perform no other services on behalf of any CPCS clients the rest of the day, then you can bill .25 hours for that one telephone call. However, if you make a second 5-minute phone call on another CPCS client (or even three more 5-minute phone calls) later in the day, you may not bill more than the original .25 hours. The combined time it takes to perform all tasks for CPCS clients in one day should be rounded to the nearest quarter-hour and billed accordingly.

Your bills should reflect the total actual time you spent on your cases each day. You may find you cannot bill for every single item of work you performed, since the quarter-hour increments would improperly inflate your billable hours.

#### Time Records:

Attorneys are required to maintain case files containing, among other things, contemporaneous time records for each of their cases, separate from their bills. These records may include a daily log or diary which records how much time the attorney spent working that day, where the attorney was, what clients s/he represented, and what services s/he performed.

Time records must minimally include the date of the activity, client name, actual amount of time expended, and a description of each task performed. Descriptions of tasks and services must be sufficiently specific and detailed to enable one to understand the nature and extent of the service performed, **including, as to legal research, the specific issue(s) researched**. Billable tasks must be segregated. Billing forms or RFPs may not be used as time records.

Attorneys should cross-reference their cases, so that on any given day, their bills for several clients will total the actual amount of time they spent working on cases that day.

Attorneys must record all the work they perform, in order to get paid for it. If an attorney does research or prepares a case on a Sunday night, the time must be billed for that Sunday. Work performed on a specific date must be billed for that date, regardless of what day of the week it is.

Attorneys should continue to record the time they expend on work they perform for each service date **even if the hours exceed the 10 hour daily total billing cap**. Except in murder cases, attorneys may not bill for any hours that exceed the 10 hour cap, unless a prior waiver has been submitted and approved by the Deputy Chief Counsel, Private Counsel Division (see 10-Hour Billing Limit section of this manual). Attorneys may not bill the excess hours to the next calendar or service date.

For example:

An attorney works 12.50 billable hours in one day, elects not to fill out a waiver form, and bills only 10 hours. The attorney's time sheet must include all 12.50 hours worked, not just the 10 hours billed. Attorneys are reminded that complete and accurate time records are the single most important documentation of hours billed.

Attorneys are required to keep these contemporaneous time sheets, together with copies of their bills, in their client files for a period not less than seven (7) years after the date of submission.

Failure to maintain adequate time records in accordance with CPCS billing policies and procedures may result in 1) the nonpayment of bills; 2) the reduction of amounts paid on bills; or 3) repayment assessments for bills that have been paid, together with possible interest and penalties.

#### Time Spent Filling Out Bills:

Attorneys may **not** bill for the time spent keeping time records or filling out billing forms.

#### Noncompensable Activities:

Attorneys may not bill for routine law office administrative / managerial tasks, nor can they bill for routine case administration tasks. Routine law office or case administrative tasks include, but are not limited to, the following examples:

- a) time spent keeping time records or filling out billing forms;
- b) notifying clients and/or courts of a change of address for your law office;
- c) activities considered to be legal training or education
- d) notifying court or other entities that you are not certified to accept Superior Court or other types of cases;
- e) time spent performing secretarial and/or clerical functions, such as:
  - i) typing, preparing envelopes or labels;
  - ii) preparing packages for mailing or parcel pick-up.

#### C. WAITING TIME

Attorneys may bill for **ACTUAL** time spent waiting **IN COURT** for **UP TO ONE HOUR** per client for each court date. Attorneys may not bill for more than three hours of waiting time per day for all CPCS clients.

The three-hour daily waiting time limit does not imply that billing three hours or less of waiting time are billed is automatically accepted as accurate. Cumulative waiting time hours billed must represent the actual time spent waiting in court that day up to three hours, be properly documented, and be in conformance with all CPCS policies and procedures.

Waiting time does not include time productively spent in court while waiting for a case to be called. In other words, waiting time does not include time spent talking to the client, other witnesses, or the prosecutor; it does not include time spent looking at probation records or reviewing law, or preparing for argument. (Those tasks should be recorded on your contemporaneous time sheets and billed in the appropriate category on the RFP or billing form.) Waiting time is dead time.

Attorneys should bill their waiting time only after they have billed for all other services that day. You may find that you cannot bill for any waiting time, if the total number of hours billed for other services equals the actual in-court time worked that day.

Attorneys may **not** automatically bill one hour per client per court appearance. The time billed must accurately reflect ACTUAL time spent waiting, **not to exceed** one hour per client.

For example:

1. The attorney has two clients and waits a total of twenty minutes for the cases to be called. The attorney may bill .25 hours of waiting time **ON ONLY ONE OF THE TWO CASES**. The attorney can bill on whichever one s/he wants.
2. The attorney has two clients and waits thirty-five minutes for the cases to be called. The attorney may bill a **TOTAL** of .50 hours of waiting time. S/he may bill .50 hours to one client, and nothing to the second client; or, s/he can bill each client .25 hours of waiting time.
3. The attorney has two clients and waits one hour and twenty minutes for the cases to be called. The attorney may bill a **TOTAL** of 1.25 hours of waiting time. S/he may bill 1.0 hour to one client, and .25 hours to the second client; or s/he can bill .75 hours to one client and .50 hours to the second client. The attorney can divide the total waiting time among her/his clients, as long as the total waiting time does not exceed actual time.
  - a) Regardless of the number of clients represented in court on a single day; if the attorney, as in this example, spent only one hour and twenty minutes waiting, s/he can bill for no more than a **TOTAL** of 1.25 hours waiting time.
4. The attorney has two clients and waits four hours for the cases to be called. The attorney may bill one hour per client, or a total of two hours. If the attorney has four clients and waits four hours, s/he can bill one hour per client for three of the clients, for a total of three hours, since there is a three-hour waiting limit per day. If the attorney has six clients and waits four hours, s/he can bill no more than a **TOTAL** of three hours.
5. The attorney has one client with three separate cases (and three separate NACs) scheduled for hearing on the same court date. The attorney waits two hours. S/he may bill a maximum of one hour for that client.

## **19. Types of Expenses**

### **Routine Law Office Overhead**

The Committee will not reimburse for routine law office expenses such as typing, secretarial services, law books, Westlaw, LEXIS, and expenses of computer research.

### **Photocopying and Postage:**

The Committee will reimburse for reasonably necessary, properly documented photocopying and postage expenses. Attorneys in-house photocopying will be reimbursed at a rate not to exceed ten cents per copy.

#### Telephone Bills:

The Committee will reimburse for collect and toll calls which are reasonably necessary in connection with representation of a client, provided that the attorney submits copies of the telephone bills to the Committee with those calls highlighted (and other calls deleted if you wish).

#### Client Personal Expenses:

If a client needs assistance of a personal nature, such as reasonable courtroom attire for an incarcerated client, counsel should contact the Committee **before incurring such expenses**. The Committee generally does not reimburse for these expenses. Counsel should seek authorization from the Deputy Chief Counsel, Private Counsel Division, prior to filing a motion pursuant to G.L. c. 261, section 27C for such expenses.

Please note that CPCS has various sizes of suits and clothing for clients to wear at trial. Please contact the Deputy Chief Counsel of the Private Counsel Division if you would like to borrow a suit for your client's trial.

#### Paralegals:

The Committee will reimburse for the services of paralegals at a maximum rate of \$12 per hour. To bill for paralegal services, include the amount of the paralegal bill in Part C of the RFP. Additionally, a bill itemizing each date, the time expended, and tasks performed on that date by the paralegal on the case must be attached to the RFP. The description of tasks and services submitted should be sufficiently specific and detailed to enable one to understand the nature and extent of services provided.

The bill must contain a certification from the attorney and the paralegal that the attorney has paid, and the paralegal has received, the amount billed on Part C of the RFP. CPCS cannot pay a paralegal directly. The Committee will reimburse only for the following tasks: legal research, investigation, client interviewing, and trial assistance. The Committee will not reimburse for the handling of hearings, trials, oral arguments, waiting time or travel time, nor will it pay for paralegal expenses.

No person compensated for paralegal services may be a relative or former client of the attorney. To qualify for compensation, a paralegal must possess either:

- (1) paralegal training in an accredited paralegal education program, or
- (2) some law school training at an accredited law school, or

(3) prior approval of the Deputy Chief Counsel, Private Counsel Division.

Attorneys may not delegate paralegal tasks to attorneys suspended by CPCS. CPCS will not reimburse attorneys for paralegal services performed by suspended attorneys.

Delegation of prohibited tasks to paralegals may be a violation of the CPCS Performance Guidelines and Standards.

Associates:

CPCS makes assignments to individual attorneys, not firms. While CPCS holds the individual attorney responsible for the case to which s/he is assigned, the assigned attorney may engage the services of an associate (member of the bar) to assist in the case. Associates are restricted to performing the following legal tasks: legal research, legal writing, investigation, and client interviewing **Assigned attorneys may not delegate to associates the handling of continuances, hearings, or any part of a trial or oral argument.** Associates may not perform any task included under the Rate A (in-court) section of the CPCS billing forms. In addition, associates may not bill for waiting time, travel time and mileage, or expenses.

To bill for associate services, include the amount of the associate bill in Part C on the RFP. Additionally, a bill itemizing each date, the time expended, and tasks performed on that date by the associate on the case must be attached to the RFP. The description of tasks and services submitted should be sufficiently specific and detailed to enable one to understand the nature and extent of services provided. Associates time sheets should be as detailed and thorough as the attorney's time sheets.

The bill must contain a certification from the attorney and the associate that the attorney has paid, and the associate has received, the amount billed on Part C of the RFP. CPCS cannot pay an associate directly. CPCS will reimburse for the services of an associate at the maximum rate of \$30.00 per hour.

CPCS will not reimburse for an associate's waiting time or travel time, nor will it pay for associate expenses.

**CPCS will not reimburse for more than 10 hours per day of associate time.**

**An attorney who has billed in excess of 1800 hours may not bill as an associate on other CPCS case assignments. Furthermore, an attorney who has billed in excess of 1800 hours may not hire and bill for an associate to complete work on open cases.**

Attorneys may not delegate associate tasks to attorneys suspended by CPCS. CPCS will not reimburse attorneys for associate services performed by suspended attorneys.

Delegation of prohibited tasks to associates may be a violation of the CPCS Performance Guidelines and Standards.

### Travel Expenses

Non-routine, automobile travel expenses (time at the hourly rate of the case, dependent upon the charges and type of case, and mileage at .22 per mile before July 1, 1999, and .27 per mile for costs incurred on or after July 1, 1999) are allowable for reasonably necessary assignment-related travel **exceeding thirty miles round-trip**. Assignment-related travel includes, but is not limited to, the following:

- a) travel to and from a court for duty days and court appearances;
- b) travel to and from a place of custody of a client;
- c) travel to and from a location of a client if s/he is handicapped or a minor;
- d) travel to and from the scene of a crime; and,
- e) travel to and from other locations in order to interview witnesses, investigate and research a case.

The threshold distance of thirty miles is measured from the attorney's nearest office OR his/her home to his/her destination, whichever distance is shorter. A reminder: an attorney's office must be within reasonable geographic proximity to the court(s) in which the attorney practices.

The date, destination and originating location, as well as the total miles traveled must be noted for each occurrence. For example, if an attorney has an office in Salem, and s/he has a hearing in Suffolk Superior Court (which is a distance greater than 30 miles round-trip) s/he would be able to request:

- a. reimbursement for mileage by recording the mileage detail under Travel - Part C:
- b. 5/4/98 From office Salem to Suffolk Sup, Boston for hearing, 32 miles round-trip @ .22 = \$7.04
- c. 9/4/98 From office Salem to Suffolk Sup, Boston for hearing, 32 miles round-trip @ .27 = \$8.64
- d. and reimbursement for time by recording the time spent traveling, to the closest quarter hour, under Travel on the billing form.

Failure to record travel time and expenses in the foregoing manner may result in the nonpayment of bill submissions for such travel time or expense.

### Parking Expenses and Tolls:

The Committee will not reimburse for parking expenses and/or tolls, unless these expenses are reasonable and are incurred in connection with reimbursable travel expenses, as previously explained.

#### Summonses for Out-of-State Witnesses in Criminal Proceedings:

All fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands have enacted the Uniform Act to Secure Attendance of Witnesses from Without a State in **Criminal Proceedings**. In Massachusetts, the Act is codified in G.L. c. 233, sections 13A-D.

If you need to secure the attendance of a witness from outside the state, you should petition the trial court for a certificate under seal that the person is a material witness in the criminal proceeding and that his/her presence will be required for a specified number of days. You must explain why the witness's testimony is not only material, but is also essential to a just determination of the matter. Be able to refute any allegation that the witness's testimony would be merely cumulative of other available and expected witnesses. An excellent model application may be found in Kantrowitz and Witkin, Criminal Defense Motions (42 Mass. Practice Series section 16.21).

When you obtain the certificate, present it in accord with the law of the state where the witness is. The relevant statutes for each state and other signatory are listed in G.L. c. 233, section 13A. The method of payment of the fees for such an out-of-state summons for an indigent defendant is addressed by Mass. R. Crim. P. 17 (b-d). The several sections of the rule contemplate an ex parte application for payment by the Commonwealth upon the representation that the defendant is unable to pay the fees of the witness. See, in particular, subsections (b) (defendants unable to pay) and (d) (2) (b) (service of summons outside the Commonwealth). You should follow the specific procedure decreed in G.L. c. 233, sections 13A-D and Mass. R. Crim. P. 17, rather than apply for payment of fees and costs under the indigent defense costs statutes (G.L. c. 261, sections 27A-G).

If your petition/motion is allowed, the witness will be summoned at the Court's expense. If your petition/motion is denied and the denial is not appealable, you may submit a written request to incur extraordinary expenses to the attention of the Deputy Chief Counsel, Private Counsel Division, CPCS, and include proof of the denial.

#### Out-of-State Witnesses in Civil Cases:

Prior to incurring costs, an attorney or vendor must submit a written request to incur extraordinary expenses to the attention of the Deputy Chief Counsel of the Private Counsel Division of CPCS, and file a motion with the court, pursuant to C. 261, sections 27A-G.

#### Other Expenses:

**For unusual expenses by type or cost, including non-routine travel, authorization from the Deputy Chief Counsel, Private Counsel Division, is required prior to incurring costs. Failure to seek prior approval will affect the reimbursement process for such expenses.**



## **20. Expenses: Billing Procedure**

### **Documentation Required**

The Comptroller of the Commonwealth requires that CPCS obtain complete documentation, including all receipts and an itemization of all expenses, prior to reimbursing attorneys for any expenditures. Legible receipts in the form of a canceled check, or other document that clearly indicates that the bill was paid, and indicating the date, amount of expenses, and name of vendor must be submitted with the attorney's request for payment.

### **Expense Billing Instructions**

Due to the Committee's funding structure, paper bill payment processes and Telebill payment processes, there are four different methods for billing for expenses. Attorneys must be familiar with expense billing procedures to avoid delays in processing Requests for Payment (RFPs) or Payment Vouchers (PVs). There are two categories of expenses: Rate C Expenses, and Payment Voucher Only Expenses. No expenses may be telebilled. Carefully follow the billing instructions in this section.

#### **A. Rate C Expenses**

The following expenses must be billed in the Rate C portion of the RFP:

- Routine Travel (mileage and tolls)
- All Paralegal Reimbursements
- All Associate Reimbursements
- Other Out-of-Pocket Expenses **under \$25**  
(for example, photocopying, postage, and telephone bills)

To be reimbursed for these expenses, attorneys must attach copies of canceled checks, paid receipts, paralegal and associate certifications, and paralegal and associate bills, as appropriate. See the preceding section on Types of Expenses for additional information on paralegal and associate billing policies.

**Telebill** related Rate C expenses must be billed on a Payment Voucher.

#### **B. Payment Voucher Only Expenses**

The following expenses must be billed on a Payment Voucher and may not be combined on the same PV with any of the Telebill related Rate C expenses listed above.

Non-Routine Travel (for example, lodging and travel out-of-state)

## Other Out-of-Pocket Expenses **over \$25**

To be reimbursed for these expenses, attorneys must attach copies of canceled checks, paid receipts and the allowed motion for funds, as appropriate.

**Telebill** related Payment Voucher Only Expenses must be billed on a Payment Voucher, and must be billed on a **separate** payment voucher from Telebill related Rate C expenses. Do not combine Telebill related Rate C expenses on the same PV form together with Telebill related PV Only Expenses. You must use two separate PV forms.

### C. Expense Billing Summary

- A. Telebill related Rate C expenses must be billed on a PV.
- B. Telebill related Payment Voucher Only expenses must be billed on a PV, but may not be combined on the same PV as Telebill related Rate C expenses.
- C. Paper bill related Rate C expenses must be billed on the RFP.
- D. Paper bill related Payment Voucher Only expenses must be billed on a PV.

### D. Assuring Prompt Payment

To assure prompt payment of your RFP or PV, adhere to the following practices:

- ◆ Do not seek reimbursement if you have not paid the vendor. After you have certified the bill, have the vendor bill CPCS directly within thirty (30) days of his or her completion of services.
- ◆ Do not seek reimbursement if someone else paid for the costs; have them bill CPCS directly..
- ◆ Do not submit a PV and then include the amount in rate C of an RFP.
- ◆ Separate PVs for each fiscal year must be submitted (the appropriations are fiscal year specific.) The fiscal year runs from July 1 through June 30.
- ◆ If you are using a vendor who has never billed CPCS, inform the vendor that to avoid delays in payment, the vendor should contact CPCS immediately after engagement for services to set up a vendor code. The new vendor should not wait until the conclusion of services to set up a vendor code.
- ◆ Notify your vendor that payment for services rendered in a fiscal year (July 1 - June 30) must be sought by filing a PV for such services no later than August 1 following the end of the fiscal year. Payment for the services rendered in the prior fiscal year and billed on Payment Vouchers received after August 1 may be significantly delayed.

## **21. NO CASE DUTY DAYS - Applies to Bar Advocate Assigned Days ONLY**

Duty attorneys who receive no cases on their assigned duty day may be compensated a flat fee of up to \$180.00. Attorneys must complete the No Case Duty Day form that is available from the Bar Advocate programs, and return the form to the local Bar Advocate program. An attorney who is compensated for a No Case Duty Day is credited by the Committee with six hours of

service for that day. The Committee will count these six hours of service when determining the total number of hours billed by an attorney on a No Case Duty Day.

For purposes of this policy, a "case" includes assignments for arraignment or bail-only. Thus, if an attorney is assigned to represent one client for bail-only, the attorney is not eligible for the flat fee for a no-case duty day. The attorney may bill, however, for actual time spent representing the client at arraignment, and actual time spent waiting, up to one hour. An authorized notice of assignment form and a completed request for payment form is required.

## **22. Compensation Rates**

The following represents the present payment structure for compensation of attorneys assigned through the Committee:

### **A. Matters Paid At \$39 Per Hour**

Effective with services rendered on or after 7/1/97, the following types of legal services will be paid at the rate of \$39 for in-court and out-of-court work:

- All cases that require a Superior Court certification - no matter where the case is heard - will be paid at \$39 for in-court and out-of-court work (rate applies to trial and appeal). Rate does not apply to bail only or arraignment only assignments in the District court, or District court bail reviews in the Superior Court.
- All cases that require a Youthful Offender certification will be paid at \$39 an hour for in-court and out-of-court work (rate applies to trial and appeal). If the case involves charges not included in the CPCS Presumptive Youthful Offender list (see Youthful Offender section of this manual), but the juvenile was nevertheless later indicted as a Youthful Offender, then the delinquency portion of the case is compensable at \$30 until the date of the indictment. The Youthful Offender portion of the case is compensable at \$39 per hour, from the date of the post-indictment arraignment until the conclusion of the case. **(It is necessary to submit copies of the indictment(s) in such cases to Helen Fremont at CPCS together with copies of the NAC form.)** The attorney should also get a new NAC for the case once the juvenile is indicted.
- All post-conviction matters (other than murder convictions) in which the defendant was convicted in Superior Court will be paid at \$39 per hour for in-court and out-of-court work.
- All post-conviction matters (other than murder convictions) in which the defendant was convicted as a Youthful Offender will be paid at \$39 per hour for in-court and out-of-court work.
- All mentors will be paid at \$39 an hour for in-court and out-of-court work.

- Petitions for review of sex offender designation, G.L. Chap. 6, Sect. 178m: These are civil cases heard in Superior Court, and will be paid at \$39 per hour for in-court and out-of-court work.
- Children and Family Law cases, except CHINS, are paid at \$39 an hour for in-court and out-of-court work.
- Mental Health cases are generally paid at \$39 an hour for in-court and out-of-court work. (See below.)

#### B. Matters Paid At \$30 Per Hour

- Bails, Bail Reviews and Bail Petitions on all cases in the District Court and all District Court Bail Reviews and Bail Petitions in the Superior Court will be paid at \$30 an hour for in-court and out-of-court work.
- All appeals from denial of motions for funds in District Court cases heard in the Superior Court will be paid at \$30 per hour for in-court and out-of-court work.
- Writs of Apprehension, G.L.c.123, s.2(e) will be paid at \$30 for in-court and out-of-court work.
- Criminal felony charges that are within district court jurisdiction (G.L.c.218, s.26) are called concurrent felonies because they are within the concurrent jurisdiction of the district and superior courts. The required certification depends on the court in which the case is heard. These cases will be paid at \$30/\$30 when they are heard in district court and \$39/\$39 when they are heard in superior court. Please note, however, that if the case is heard as a district court case, its bail review in the Superior Court will be paid at \$30 per hour.
- CHINS cases are paid at \$30 an hour for in-court and out-of-court work.
- Mary Moes (Minors Seeking Abortion, G.L.c.112, s.12S, offense code 1005) will be paid \$30 an hour for in-court and out-of-court work.
- SDP Reviews (G.L.c.23A, s.9, offense code 1007) will be paid \$30 an hour for in-court and out-of-court work.
- Probate Contempt cases where a criminal complaint has been issued will be paid at \$30 an hour for in-court and out-of-court work.
- All other criminal cases not listed above are paid at \$30/\$30.

#### C. Matters Paid At \$54 Per Hour

First and Second Degree Murder trials and murder appeals will be paid at \$54 per hour.

D. SUMMARY:

|  |               |
|--|---------------|
| Murder Cases   | \$54 per hour |
| Cases (Not Bail Only Assignments)<br>Requiring Superior Court Certification                        | \$39 per hour |
| Cases (Not Bail Only Assignments)<br>Requiring Youthful Offender Certification                     | \$39 per hour |
| Substantive Criminal Cases ( <b>NOT</b> Bail Reviews or Bail Petitions)<br>Heard in Superior Court | \$39 per hour |
| Criminal Cases not requiring Superior Court Certification<br>Heard in District Court               | \$30 per hour |
| Juvenile Delinquency Cases not requiring Youthful<br>Offender Certification                        | \$30 per hour |
| Bail Only Assignments  | \$30 per hour |
| District Court Bail Reviews and Bail Petitions<br>In the Superior Court                            | \$30 per hour |
| Mentors in all cases   | \$39 per hour |
| Petitions for Review of Sex Offender Designation   | \$39 per hour |
| Mary Moe cases, c.112, s. 12S  | \$30 per hour |
| SDP Reviews  | \$30 per hour |
| Writs of Apprehension, c. 123, s.12(e)   | \$30 per hour |
| Concurrent felonies:<br>If substantive case heard in Superior Court                                | \$39 per hour |
| If substantive case heard in District Court  | \$30 per hour |
| Children and Family Law cases, except CHINS  | \$39 per hour |
| CHINS cases  | \$30 per hour |
| Mental Health Cases not mentioned above  | \$39 per hour |
| Other Criminal Cases not mentioned above   | \$30 per hour |

## **DOCKET ENTRY REQUIREMENTS**

### Case Type

### Thresholds Requiring Docket Entries\*

\*based on cumulative billing totals for an individual case heard in a specified court

|                                  |            |
|----------------------------------|------------|
| Murder                           | \$5,000.00 |
| All Appeals                      | N/A        |
| Superior Court<br>Criminal       | \$1,000.00 |
| District Court<br>Criminal       | \$500.00   |
| Juvenile Delinquency             | \$500.00   |
| Youthful Offender                | \$1,000.00 |
| CHINS                            | N/A        |
| SDP Reviews<br>(G.L.c.123A, s.9) | N/A        |
| G.L.c.112, s.12S                 | N/A        |
| Children and Family Law          | N/A        |
| Other Civil Matters              | N/A        |

\*For criminal, Youthful Offender, and delinquency cases, docket entries must accompany a bill which brings the total billed for services on that case in that court above threshold amount.

### DEFINITION OF IN-COURT TIME:

Time actually engaged in evidentiary hearing or trial; e.g., pre-trial hearing, court conference with judge, trial, plea hearing, dispositional hearing, post-trial hearing.

### DEFINITION OF OUT-OF-COURT TIME:

Time actually spent in preparation, e.g., client or witness interview, investigation, research, negotiation, or travel (consistent with Committee travel policy), waiting, default, continuance, withdrawal.

### WAITING TIME:

Attorneys may bill for **ACTUAL TIME** spent waiting **IN COURT** for **UP TO ONE (1) HOUR** per client for each court date; but no more than three (3) hours cumulative for all clients with appearances on the same date.

## **23. INSTRUCTIONS FOR COMPLETION OF FORMS**

### NOTICE OF ASSIGNMENT OF COUNSEL FORM (NAC) INSTRUCTIONS TO COURT

(Numbers on sample form correspond to numbers below.)

The NAC form is to be completed for all cases in which the Committee for Public Counsel Services provides representation. The Committee can neither provide services to a client nor compensate an attorney until it has received a NAC. Where applicable, only those from lists of Committee-certified attorneys may be assigned.

In some courts, assignments on NACs may be issued automatically through the courts Warrant Management System (WMS). Under this system, the attorney will receive one form for each charge, but all forms will have the same assignment number. The attorney may not file a bill separately for each charge. The attorney must wait until all the charges under that assignment number are disposed of, or until the end of the fiscal year, to file a bill for all work done on all charges.

- (1) **ASSIGNMENT NUMBER**  
Pre-printed.
- (2) **DATE OF ASSIGNMENT**  
Enter date assignment begins.
- (3) **NAME OF ASSIGNING JUDGE**  
Enter judge's name.
- (4) **NAME OF PERSON FOR WHOM COUNSEL APPOINTED**  
Enter name of client, not the case name..
- (5) **COURT DIVISION**  
Pre-printed.
- (6) **JUVENILE/ADULT**  
Check one.

- (7) **LANGUAGE IF NOT ENGLISH**  
If person for whom counsel is assigned either does not speak or understand English, indicate his/her language.
- (8) **DOCKET NO.**  
Enter docket numbers.
- (9) **CRIMINAL CASES--ENTER OFFENSE CODE OR CHAPTER & SECTION**  
In Criminal cases, enter offense code or statute's chapter and section (see Offense Code section of this manual). Give elaboration where necessary; e.g., amount of drugs for trafficking charge. Enter charge.
- (10) **NON-CRIMINAL CASES**  
Check appropriate box if listed; otherwise note chapter and section under offense code.
- (11) **NEXT COURT DATE**  
Enter next court date and check box for event scheduled on that date.
- (12) **INCARCERATION STATUS**  
In criminal cases, indicate defendant's incarceration status and cash bail amount if defendant not released.
- (13) **PURPOSE OF ASSIGNMENT**  
In post-trial criminal cases, check applicable box(es).
- (14) **INDIGENCY STATUS**  
Check one; enter amount if indigent but able to contribute. (See Supreme Judicial Court Rule 3:10, sec.6, on page 129.)
- (15) **PUBLIC DEFENDER DIVISION**  
Check this box if representation to be provided by Public Counsel Division. Local office number pre-printed.
- (16) **STUDENT ATTORNEY**  
Check this box if representation to be provided by Student Defender Program under SJC Rule 3:03. Name the program (see SJC Rule 3:03, on page 138).
- (17) **ATTORNEY TO BE NAMED**  
Check this box only for appeals to the Supreme Judicial Court or Appeals Court, criminal Rule 30 motions, sexually dangerous persons petitions and murder cases.
- (18A) **PRIVATE ATTORNEY BBO NUMBER**  
Enter attorney BBO number.
- (18B) **PRIVATE ATTORNEY NAME**



If a private attorney is assigned, check "Private Counsel Attorney" and enter attorney's name, address and telephone number.

(19) **AUTHORIZED SIGNATURE**

Signature and printed name of authorized court official.

(20) **BAIL ONLY**

Check here if assignment is for arraignment only, bail only, or bail review.

NOTES

Reverse side of green (court) copy is attorney appearance.

Distribute copies of form as follows:

White copy: Committee for Public Counsel Services  
470 Atlantic Avenue, Suite 700  
Boston, MA 02210

Green copy: Court file

Pink Copy: Person to whom representation provided

Blue copy: Bar Advocate program

Goldenrod copy: Attorney

If a case is transferred from one attorney to another, it is necessary for a new NAC number to be completed by the court for the new attorney. It is the responsibility of the withdrawing attorney to notify the court of his/her withdrawal, so that the new NAC can be given to successor counsel. It is the responsibility of successor counsel to obtain a new NAC from the court.

Notice of Assignment of Counsel form ( NAC form ) is downloadable in PDF file format

**REQUEST FOR PAYMENT FORM (RFP)**  
**INSTRUCTIONS TO ATTORNEY**

(Numbers on sample form correspond to numbers below.)

Complete and submit RFP to the appropriate bar advocate program or to CPCS within thirty (30) days of conclusion of representation, or for cases pending at the end of fiscal year (June 30) by August 1.

**REMINDER: THE COMMONWEALTH'S FISCAL YEAR RUNS FROM JULY 1 THROUGH JUNE 30. PLEASE SEPARATE RFP'S BY FISCAL YEAR. END OF YEAR BILLS MUST BE SUBMITTED TO THE APPROPRIATE BAR ADVOCATE PROGRAM OR TO CPCS BY AUGUST 1.**

- (1)    **NOTICE OF ASSIGNMENT OF COUNSEL NUMBER**  
Enter NAC number. ("A" series, "B" series, or "C" series, depending on date of assignment.)
- (2)    **ASSIGNMENT DATE**  
Enter date of assignment.
- (3)    **CLIENT NAME**  
Enter client name. You must enter the first and last name.
- (4)    **DOCKET NUMBERS**  
Enter docket numbers.
- (5)    **ATTORNEY NAME**  
Enter name and vendor code of attorney providing representation.
- (6)    **COURT CODE**  
Enter court code for court in which these services were provided (see Section IX. of this manual). Enter "J" after code for District Court Jury Session.
- (7)    **COURT NAME**  
Enter court name.
- (8)    **CHECK APPLICABLE BOX**  
For type of case.

**PART I**

- (9A)   **DATE(S) OF SERVICE**  
Fill in your date(s) of service, making sure that the date is legible and accurate. Do not enter the date of service more than once.

(9B) **IN-COURT TIME (RATE A)**

Fill in appropriate box(es) showing the number of hours to nearest quarter hour of time spent on legal services on each date on each activity. Be sure that your bills accurately reflect the total number of hours of legal services performed on any given date.

For example: 15 minutes = .25 hours  
30 minutes = .50 hours  
45 minutes = .75 hours

(9B) **OUT-OF-COURT TIME (RATE B)**

Fill in appropriate box(es) showing the number of hours to nearest quarter hour of time spent on legal services on each date on each activity. Be sure that your bills accurately reflect the total number of hours of legal services performed on any given date.

For example: 15 minutes = .25 hours  
30 minutes = .50 hours  
45 minutes = .75 hours

(Reminder: The fiscal year runs from July 1 through June 30. Please fill out separate RFP's for services provided in separate fiscal years.)

**RATES**

See Rates section in this manual.

(10) **TRAVEL TIME**

See travel policy in this manual for description of when travel time may be billed. Travel time must be noted in Rate B column.

(11) **TRAVEL EXPENSES**

See travel policy in this manual for description of when travel expenses may be billed. Describe origin, destination, reason and mileage. You may attach a separate sheet of detail, and use the area on the bill for the total.

(12) **NON-TRAVEL EXPENSES--BASIC OUT-OF-POCKET**

Describe incidental expenses claimed and provide receipts. See policies and procedures regarding non-travel expenses. Reimbursable non-travel expenses under \$25.00 should be listed in this space on the RFP. Associate and paralegal expenses in any amount should also be listed here (see paralegal and associate policy). For other expenses exceeding \$25.00, do not list on the RFP; a separate Payment Voucher form must be filled out, as outlined in a preceding section of this manual.

To obtain authorization for and reimbursement of expenditures in excess of \$25 per case, attorneys should use the indigent court costs fund, G.L. ch.261, sec.27A-G.

(13) **ATTORNEY CERTIFICATION AND CASE STATUS**

Check box indicating status of case; sign and date.

Signature stamps are not allowed. Your original signature must be on the copy you submit.

(14) **DOCKET ENTRIES**

Check box indicating whether docket entries are attached (attach only if total for case exceeds figure listed for that type of case).

Submit the white copy of the RFP, along with Dispositional Report Form (if appropriate -- see instructions) and docket entries (if required -- see thresholds on RFP) to your bar advocate office or CPCS, whichever is appropriate for the type of case. It is recommended that you photocopy the submitted original of the bill, to assure that your records are legible.

Include NAC number in all inquiries to the Committee as to the status of a RFP. However, please wait at least four weeks after submitting the bill to make your inquiry.

**ALL REQUESTS FOR PAYMENT, TELEBILLS, AND PAYMENT VOUCHERS ARE SUBJECT TO AUDIT BY THE COMMITTEE OR BY THE STATE AUDITOR, AND FURTHER INFORMATION MAY BE REQUESTED FROM THE ATTORNEY OR OBTAINED FROM THE COURT.**

Request For Payment ( RFP ) form is downloadable in PDF file format

## DISPOSITIONAL REPORT FORM INSTRUCTIONS TO ATTORNEYS

(Numbers correspond to numbers below.)

This form is the last page (goldenrod copy) of the Notice of Assignment of Counsel (NAC) Form, so the front of this form is completed by the assigning court. Submit this form only at the conclusion of trial-level representation.

Warrant Management System (WMS) assignment forms do not include a dispositional form. If you received a WMS assignment form from the court, then you should copy a blank dispositional form from the back of a NAC. Change the assignment number to the correct WMS assignment number and attach this dispositional form to your bill.

- (1) Enter date of disposition, disposing court code (see court code section of this manual), and enter "J" after code if district court jury session and name of disposing judge. Check appropriate box as to whether client committed.
- (2) Check applicable box showing status of case.

FOR CIVIL CASES: STOP HERE AND SUBMIT WITH RFP TO COURT.

FOR CRIMINAL CASES: COMPLETE THE FOLLOWING:

- (3) Check all boxes which apply to any stage of the case.
- (4) Check box showing how case was disposed.
- (5) Charges: In the order in which charges are shown on reverse, check relevant boxes for each charge.
- (6) Result: Check box applicable to this charge. If Guilty Lesser Included, enter offense code for offense (see Offense Codes section of this manual).

Incarceration Status: Check box applicable to this charge.

Institutional Time: Enter number of years or months under appropriate institution. If less than a month in House, check "Days" box.

For subsequent charges, in order listed on reverse, check applicable boxes. If dispositions in these charges are identical and concurrent, only check that box; there is no need to provide the additional information.

Check applicable boxes and enter filing date of notice of appeal.

Disposition ( Dispo ) form is downloadable in PDF file format